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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,141	11/03/2003	Vyshislav Ivanov	3769-019 CON	3725
<div>22440      7590      01/28/2008 GOTTLIEB RACKMAN &amp; REISMAN PC 270 MADISON AVENUE 8TH FLOOR NEW YORK, NY 10016-0601</div>				
<div>EXAMINER MCGRAW, TREVOR EDWIN</div>				
<div>ART UNIT      PAPER NUMBER 3752</div>				
<div>MAIL DATE      DELIVERY MODE 01/28/2008      PAPER</div>				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/700,141	Applicant(s) IVANOV ET AL.	
	Examiner Trevor McGraw .	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 61-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 61-67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/22/07; 11/30/07</u> .                                       | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 61-64, 66 and 67 are rejected under 35 U.S.C. 102(b) as being anticipated by Kochenour (US 4,090,668).

In regard to Claims 61-64, 66 and 67, Kochenour (4,090,668) teaches an apparatus for cleaning and deicing a vehicle window where the apparatus comprises a reservoir (30) that contains a washing fluid, a vessel (50 or 52) having an inlet (60) through which the washing fluid is received from the reservoir and an outlet (62) through which the fluid is discharged where at least one spray head (80) is in fluid communication with the outlet through which the fluid is sprayed onto at least one vehicle window (Column 4, lines 22-37) and at least one windshield wiper (12, 22) for wiping the window where the windshield wiper actuation system includes a motor (20; Column 3, lines 27-32) that actuates the windshield wiper (12, 22) and a controller (110; Column 4, line 67-Column 5, line 10) to control at least one of the spray heads (80) and the windshield wiper (12, 22) based on the torque of the motor (20; Column 3, lines 27-32; motor controls the wiper blade sweep motion).

The apparatus of Kockenour also teaches where the windshield wiper (12, 22) is operative to wipe the window between two limits of travel where the traveling sweeping motion of wiper blades controlled by the motor for back and forth motion in both a clockwise and counterclockwise direction and the controller is operative to change the direction of at least one windshield wiper without reaching at least one of the two limits of travel by switching the speed at which the motor actuates the windshield wipers where the controller further is capable of synchronizing operation of at least one spray head (80) with the movement of at least one windshield wiper (12, 22; See Figure 2 where the spray heads are in the windshield wiper and cooperate with one another when the wiper is motioned in the sweeping clockwise and counterclockwise movements).

The apparatus of Kockenour further teaches where the reservoir (30) has a heating element (104) that is disposed in the vessel (50 or 52) for heating the fluid in the vessel (50 or 52).

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422

F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 61 and 65 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 10, 12 and 13 of U.S. Patent No. 6,164,564(Franco et al.) in view of Kochenour (US 4,090,668). In regard to Claims 61 and 65, Kochenour as taught and described above fails to teach where the windshield wiper is placeable in a summer parking mode and a winter parking mode, when in the summer parking mode the wiper is at rest generally at one of the limits of travel, and when in the winter parking mode the wiper is between the limits of travel.

However, Franco et al. (US 6,164,564) as taught and described above further teaches where the windshield wiper is placeable in a summer parking mode and a winter parking mode, when in the summer parking mode the wiper is at rest generally at one of the limits of travel, and when in the winter parking mode the wiper is between the limits of travel. Therefore, it would have been obvious to one having ordinary skill in the art at the time the present invention was made to provide the windshield wiper washing and deicing system of Kochenour with the summer and winter wiper parking modes of Franco et al. in order to provide for a manner in which the wiper blades can be

selectively positioned higher within the two limits of travel to operate faster in the winter time to prevent ice build up and to create less strain on the motor.

### ***Response to Arguments***

#### **Rejection under 35 USC § 102**

Applicant's arguments, see page 4, filed 11/08/2007, with respect to the rejection of Claims 61-67 to Franco et al (US 6,164,564) have been fully considered and are persuasive. The rejection of Claims 61-67 held under 35 U.S.C. § 102 (b) has been withdrawn in view of Applicant's showing of continuity of Franco et al being commonly invented and assigned. However, Applicant's arguments regarding the Kochenour reference are unpersuasive. As was clearly stated in the Office Action mailed 07/09/2007 the Kochenour reference substantially teaches the features as recited in Applicant's Claims 61-67. Applicant is also directed to the specific column number and line citations denoted in the Office Action mailed 07/09/2007. For the aforementioned reasons, Examiner maintains the rejection of Claims 61-64 and 66-67 held under 35 U.S.C. § 102 (b) to Kochenour.

#### **Rejection under 35 USC § 103**

Applicant's arguments, see page 4, filed 11/08/2007, with respect to the rejection of Claim 65 has been fully considered and are persuasive. The rejection of Claim 65

held under 35 U.S.C. § 103 (a) has been withdrawn in view of Applicant's showing of continuity of Franco et al being commonly invented and assigned.

**Double Patenting Rejection**

Applicant's arguments with respect to claims 61-67 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

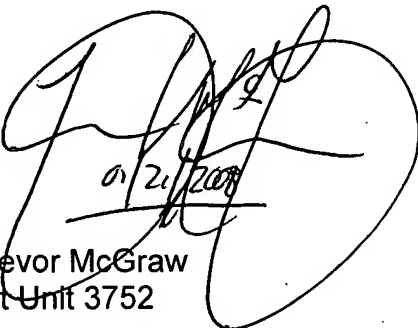
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trevor McGraw whose telephone number is (571) 272-7375. The examiner can normally be reached on Monday-Friday (2nd & 4th Friday Off).

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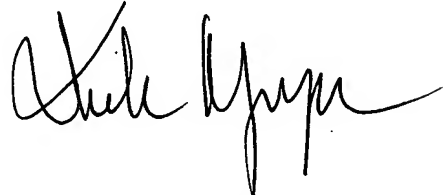
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Trevor McGraw  
Art Unit 3752

TEM



DINH Q. NGUYEN  
PRIMARY EXAMINER